

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF GEORGIA
STATESBORO DIVISION

UNITED STATES OF AMERICA

v.

CHRYSTAL HARLIE

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CR 614-020

O R D E R

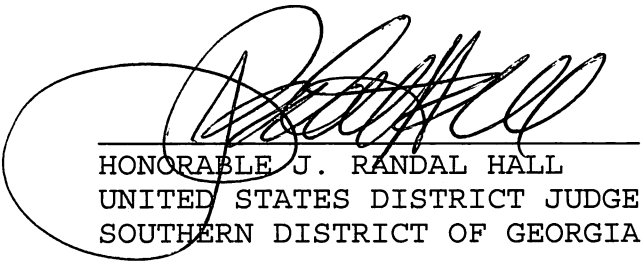
On November 21, 2016, Defendant Chrystal Harlie filed a motion to reduce sentence under 18 U.S.C. § 3582(c)(2) based upon Amendment 794 to the United States Sentencing Guidelines, which sets out new guidelines for the determination of whether a defendant should be granted a mitigating role reduction under U.S.S.G. § 3B1.2.

Defendant was sentenced prior to the effective date of Amendment 794. Even assuming Defendant is correct, i.e., that her conduct would qualify her for a "minor role" reduction, a court may not modify a sentence once it has been imposed except under limited circumstances. 18 U.S.C. § 3582(c). And, while one of the exceptions provides that a sentence may be reduced if it is based on a lowered guideline range, § 3582(c)(2) is only triggered by an amendment listed in U.S.S.G. § 1B1.10(d). ("In determining whether, and to what extent, a reduction in the defendant's term of imprisonment under 18 U.S.C. § 3582(c)(2) . . . is warranted, . . . the court shall substitute only the amendments listed in subsection (d) . . . and shall leave all other guideline

application decisions unaffected" (emphasis added).). Amendment 794 is not a listed amendment in U.S.S.G. § 1B1.10(d).¹ Consequently, Amendment 794 would not be available to Defendant.²

Upon the foregoing, Defendant's motion to reduce sentence (doc. 31) is **DENIED**.

ORDER ENTERED at Augusta, Georgia, this 9th day of January, 2017.



HONORABLE J. RANDAL HALL
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF GEORGIA

¹ Indeed, the Sentencing Commission stated that Amendment 794 is intended only as a clarifying amendment. U.S.S.G. App. C, Amend. 794 (Reason for Amend.) ("This amendment provides additional guidance to sentencing courts in determining whether a mitigating role adjustment applies.").

² The case cited by Defendant out of the Ninth Circuit, United States v. Quintero-Leyva, 823 F.3d 519, 522 (9th Cir. 2016), is inapplicable because it held that Amendment 794 may be applied retroactively to direct appeals. There is no authority that Amendment 794 may be applied in a post-conviction context.